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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,254	03/17/2004	Marc D. Etchells	2186.005USU	4331

7590 04/16/2008  
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EXAMINER
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HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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04/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/802,254	ETCHELLS, MARC D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MELANIE J. HAND	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/19/07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on December 21, 2007 was filed after the mailing date of the non-final action on June 21, 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Response to Amendment***

2. The indicated allowability of claims 14-16 is withdrawn in view of the newly discovered reference(s) to Mavinkurve. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 16 recites the limitation "said top sheet" and "said back sheet" in line 3. There is insufficient antecedent basis for this limitation in the claim. Specifically it is unclear which top sheet and back sheet is referred to, since claim 14 also recites "said top sheet" and "said back sheet" when referring to a side panel top sheet and side panel backsheet.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mavinkurve (U.S. Patent No. 5,275,591).

With respect to **claim 14**: Mavinkurve teaches an absorbent pad 100 comprising: a base panel in the form of a central absorbent compartment and one or more side panels in the form of secondary flap compartments hingeably connected to said base panel along sealing line 10. Examiner's position is based upon the fact that the secondary flap compartments (side panels) are capable of being moved so as to overlie the base panel because said flaps are also capable of being wrapped around an undergarment. (Col. 8, lines 8-12) Therefore, the side panels have a full range of motion about the sealing line 10 that connects the side panels and base panel and the side panels are thus hingeably connected to the base panel. The one or more side panels each further comprises a top sheet 38, a bottom sheet 35, and one or more islands of absorbent tissue 30 disposed between said top sheet 38 and said bottom sheet 35 inasmuch as the absorbent 30 is isolated by sealing means 10, extending around the entire periphery of absorbent 30, from the base panel and the rest of the side panel. (Figs. 1,4, Col. 5, lines 1-4, 9-13; Col. 8, lines 8-12)

With respect to **claim 15**: The one or more side panels of Mavinkurve are foldable around the crotch portion of an undergarment. (Col. 8, lines 8-12) Thus, they are also considered herein to be foldable in a manner so as to allow said absorbent pad 100 to conform to a base and sidewalls of a similarly dimensioned package or container, such as a package for holding multiple absorbent pads.

With respect to **claim 16**: The base panel of Mavinkurve further comprises a top sheet in the form of the portion of the cover 38 that overlies the absorbent portion of the base panel, a bottom sheet in the form of the portion of backing 35 that underlies the absorbent portion of the base panel, and one island in the form of central absorbent core 34 disposed between said top sheet 38 and said bottom sheet 35. For examination purposes, it is interpreted herein that "said top sheet" and "said back sheet" is referring to the top sheet and back sheet of the base panel, rather than referring back to "said top sheet" and "said back sheet" recited in claim 14.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761